

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 -----x  
UNITED STATES OF AMERICA,

3 Plaintiff,

Docket No.:

15 CR 637 (KAM)

4 versus

5 MARTIN SHKRELI,

U.S. Courthouse

225 Cadman Plaza East

6 Defendant.

Brooklyn, NY 11201

7 -----x

July 31, 2017

9:00 a.m.

9 Transcript of Criminal Cause for Trial

10 Before: HONORABLE KIYO A. MATSUMOTO,  
District Court Judge  
11 (and a jury.)

12 APPEARANCES

13 For the Government:

BRIDGET M. ROHDE, ESQ.

Acting United States Attorney

Eastern District of New York

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Brooklyn, New York 11201

16 BY: JACQUELYN M. KASULIS, ESQ.,  
ALIXANDRA E. SMITH, ESQ.,  
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17 Assistant U.S. Attorneys

18 For the Defendant:

BRAFMAN & ASSOCIATES, P.C.

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New York, New York 10017

19 BY: BENJAMIN BRAFMAN, ESQ.

MARC AGNIFILO, ESQ.

20 ANDREA ZELLAN, ESQ.

21 JACOB KAPLAN, ESQ.

22 Court Reporter:

MICHELE NARDONE, CSR

Official Court Reporter

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25 Proceedings recorded by mechanical stenography. Transcript  
produced by computer-aided transcription.

MICHELE NARDONE, CSR - Official Court Reporter

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1 (In open court.)

2 (Defendant present.)

3 (Jury enters.)

4 THE COURT: I would like to note for the record that  
5 all jurors are present, and I remind all jurors that you will  
6 begin deliberations.

7 Jurors 1 through 12, you will be in the jury room that  
8 you have occupied for these last few weeks, and I ask that you  
9 not discuss your deliberations outside the jury room. In  
10 addition, please do not deliberate if one of your fellow jurors  
11 steps out of the room.

12 For those jurors designated numbers 13 through 18, you  
13 will be asked to sit in a separate room, and you will be asked  
14 to continue not discussing the case amongst yourselves. If  
15 called upon, you will be -- you may be called upon to replace  
16 Juror 1 through 12, if one of them becomes unavailable to  
17 continue deliberations.

18 What we will give you is the indictment, which I  
19 remind you is not evidence. It is the charge that the  
20 government has brought, but it is not evidence. It will help  
21 you understand the charges. You will also be given six copies  
22 of the instructions that I read to you on Friday, as well as  
23 one verdict sheet. Whoever the foreperson is will check the  
24 appropriate box for each of the eight counts and put his or her  
25 initials and the date and will sign the verdict form at the

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1 bottom.

2 If it becomes necessary to write a note to the court  
3 and you wish to have testimony read back, please try to be very  
4 specific and write the note signed and dated by the jury  
5 foreperson. There will be a court security officer outside  
6 your door, who will be able to contact me; and we will then  
7 decide how to deal with your request.

8 It's possible that we may respond by a note back or we  
9 may send portions of the transcript back to you, but if you  
10 could try to please be very specific, especially if you would  
11 like to hear witness testimony, and give us the name of the  
12 witness or the subject matter. That would be very helpful.

13 You will also have copies of all the exhibits that are  
14 in evidence. You may not consider anything that is not an  
15 exhibit. We will be bringing you additional bank records at  
16 some point this afternoon or this morning. They are very  
17 voluminous. These are the underlying bank records that the  
18 government admitted; and you will have a chance to look at the  
19 actual bank records, if you wish.

20 So with that, I would ask you to please remember your  
21 oath, and I want to thank you again for your service. We will  
22 bring lunch to you, I think around 12:30 or 1:00, and you may  
23 continue working through the lunch period, if you wish.

24 So with that, I thank you, and we will send you to  
25 deliberate.

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1 Oh, let me just ask the court officer to take an oath.

2 Would you raise your right hand, sir.

3 (The marshal was sworn.)

4 THE COURT: Your name for the record, sir.

5 THE MARSHAL: Russell Berkhardt.

6 THE COURT: Thank you. He will be outside the door.

7 If you have a note, you can give it to him.

8 (Jury exits at 9:45 a.m.)

9 THE COURT: I just wanted to address the government.

10 The forfeiture allegation is still in the revised indictment.

11 Since they are not going to be deciding the forfeiture, I think

12 maybe we should redact it even further.

13 MS. KASULIS: Okay.

14 THE COURT: If the defense agrees.

15 MR. AGNIFILO: That's fine, judge. Yes.

16 THE COURT: We will just give them a new revised.

17 MS. KASULIS: Okay.

18 THE COURT: Okay. Thank you.

19 MS. KASULIS: Your Honor, would you like us to redact  
20 it and to refile?

21 THE COURT: I think that would be easier.

22 MS. KASULIS: Okay. We will go ahead and do that.

23 THE COURT: If you don't mind.

24 Do we have phone numbers of all the counsel?

25 MR. AGNIFILO: We gave them on Friday. I will make

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1 sure that they are accessible. If not, we will just do it  
2 again.

3 (Court in recess awaiting the verdict of the jury.)

4 (In open court.)

5 (Defendant present.)

6 (Court Exhibit 7 so marked.)

7 THE COURT: All right. We have a note that we have  
8 marked as Court Exhibit number 7. Exhibit 7 simply asks how  
9 late they are expected to deliberate; and I'm prepared to bring  
10 them in now and let them know that they can adjourn for the  
11 day, if they wish. I will give them appropriate admonishments.  
12 We will also let the alternates know that they can also be  
13 dismissed.

14 Maybe we should set the time that they will stay each  
15 day. I think we can let them know that we will let them stay  
16 until 5:15 at least, if that's all right. But I think that,  
17 you know, they have been at this all day. So it would be fine  
18 to let them go for the day.

19 Did the counsel want the alternates admonished on the  
20 record as well?

21 MR. BRAFMAN: I'm sorry?

22 THE COURT: Do you want the alternates admonished on  
23 the record as well?

24 MS. KASULIS: Yes.

25 THE COURT: I think I would like them not to be

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1 discussing the case or talk to the media.

2 MR. BRAFMAN: All right. So why don't we bring them  
3 all in.

4 THE COURT: Bring them all in.

5 (Pause.)

6 (Jury enters at 5:25 p.m.)

7 THE COURT: All jurors are present. Please have a  
8 seat, everybody. I would like to thank the jurors and the  
9 alternates for their ongoing work in this case.

10 As for the note that I received, which we have marked  
11 as Court Exhibit number 7, What hours are we expected to  
12 deliberate, we would like to come, as I said earlier, at  
13 nine o'clock in the morning and we are happy to dismiss you  
14 somewhere around 5:15. Obviously, if you would like to go a  
15 little bit later, that's fine as well, but all you have to do  
16 is send us a note and tell us you are ready to conclude for the  
17 evening. So tomorrow at 5:15, if you would like to conclude at  
18 that time, we are happy to do that.

19 I would like to say to all jurors, especially Jurors 1  
20 through 12, that you must not and cannot discuss anything  
21 regarding your deliberations outside the jury room.

22 With regard to the alternates, I want to thank you for  
23 your patience and admonish you not to discuss this case and not  
24 to listen to or read anything regarding this case or  
25 Mr. Shkreli. That obviously goes for all jurors.

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1 I would like you to return tomorrow at nine o'clock.  
2 When all 12 are here, we will commence deliberations and bring  
3 the evidence back to your jury room; and the same is so for the  
4 alternates. You won't see the evidence, but you can bring  
5 reading material, a book or something, not media, if you don't  
6 mind, but a book or something.

7 And I would say to the alternates, there was a  
8 question whether you could go downstairs to the concession  
9 stand and buy chips or something, and the answer to that is  
10 yes. Just please don't speak to anybody and don't stop in the  
11 cafeteria where the televisions may be on. All right.

12 So have a very good night, and thank you very much for  
13 your hard work, everybody. I will see you tomorrow.

14 (Jury exits at 5:28 p.m.)

15 THE COURT: All right. So we will adjourn for the  
16 day, and when all jurors are here tomorrow we will resume.

17 MR. BRAFMAN: Thank you, Your Honor.

18 MR. AGNIFILO: Good night, judge.

19 THE COURT: Good night.

20 (Trial adjourned to Tuesday, August 1st, 2017, at  
21 9:00 a.m.)

22 o o o

23 Certified to be a true and accurate transcript.

24 /s/ Michele Nardone

25 MICHELE NARDONE, CSR -- Official Court Reporter

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COURT EXHIBIT

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